

# UNITED STATES DISTRICT COURT

for the  
District of New Mexico



In the Matter of the Search of  
(Briefly describe the property to be searched  
or identify the person by name and address)  
GABRIEL MONICO GUEVARA (born in 1981)

Case No. 22-MR-134

## APPLICATION FOR A WARRANT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachment A

located in the \_\_\_\_\_ District of New Mexico, there is now concealed (identify the person or describe the property to be seized):

See Attachment B

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
- ☒ contraband, fruits of crime, or other items illegally possessed;
- ☒ property designed for use, intended for use, or used in committing a crime;
- ☒ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
18 U.S.C. §§ 924(c)(1)(A)(i)	Possession of a firearm during and in relation to a drug trafficking crime
21 U.S.C. §§ 841(a)(1), (b)(1)	Possession with intent to distribute a mixture and substance containing marihuana
(D)	

The application is based on these facts:

See attached affidavit submitted by SA Leysa Lopez and approved by AUSA Nora Wilson.

☒ Continued on the attached sheet.

☐ Delayed notice of \_\_\_\_\_ days (give exact ending date if more than 30 days: \_\_\_\_\_) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Applicant's signature

Leysa Lopez, FBI Special Agent

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by

Telephonically sworn and electronically signed (specify reliable electronic means).

Date: January 26, 2022

City and state: Albuquerque, New Mexico

Judge's signature

Laura Fashing, U.S. Magistrate Judge

Printed name and title

**AFFIDAVIT IN SUPPORT OF SEARCH AND SEIZURE WARRANT**

**INTRODUCTION AND PURPOSE OF THE AFFIDAVIT**

1. I, Leysha López, Special Agent of the Federal Bureau of Investigation (FBI), being first duly sworn, make this affidavit in support of an application, under Rule 41 of the Federal Rules of Criminal Procedure, for a warrant to search the body of **GABRIEL MONICO GUEVARA** (born in 1981) to collect deoxyribonucleic acid (DNA) samples in the form of buccal swabs. I believe that GUEVARA's DNA may be present on, or within, a firearm seized by law enforcement from GUEVARA and other evidence items collected during this investigation.
2. I have been a law enforcement officer since March 2017, and I am employed as a Special Agent with the FBI. I am presently assigned to the FBI's Albuquerque Violent Crime and Gang Task Force, where I investigate cases involving violent repeat offenders involved in drug and firearm related crimes, kidnappings, robberies, and fugitives. I also assist with investigations of drug trafficking organizations and gang-criminal enterprises.
3. This application seeks a warrant authorizing law enforcement officers working this investigation to search GUEVARA's person for evidence pertaining to violations of:
  - a. 18 U.S.C. § 924(c)(1)(A)(i) – Possession of a firearm during and in relation to a drug trafficking crime
  - b. 21 U.S.C. § 841(a)(1), (b)(1)(D) – Possession with intent to distribute a mixture and substance containing marihuana.
4. The facts in this affidavit come from my personal knowledge, my training and experience, information obtained from other law enforcement officers with the Albuquerque Police Department (APD) and Drug Enforcement Administration (DEA), and law enforcement reports and court documents I have reviewed. This affidavit does not include each and every fact known concerning this ongoing investigation, but has set forth only the facts to establish probable cause.

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**RELEVANT CRIMINAL HISTORY**

5. I have reviewed GUEVARA's criminal history and am aware he has multiple arrests in New Mexico since 1999. While I recognize the difference between an arrest and a criminal conviction, I believe it is important to note GUEVARA has a noteworthy history of run-ins with law enforcement, including arrests for drug-related crimes and violent offenses, and incidents involving firearms and domestic violence. I believe GUEVARA's proclivity to violent crime, domestic violence, and drug and firearm possession may be appropriate and relevant to the fact pattern contained herein. Some of the specific incidents and arrests I believe germane to the charges listed herein, include:

- a. 2002, Battery against a household member
- b. 2005, Domestic violence (Order of Protection issued): In 2005, GUEVARA's grandmother, A.M., filed a petition for an order of protection against GUEVARA. In the petition, A.M. reported GUEVARA possessed a firearm and a knife and was threatening to hurt A.M. The court issued the protective order and an arrest warrant for GUEVARA for failure to appear to these proceedings.
- c. 2005, Assault against a household member; Refusing to obey officers: GUEVARA was convicted of the misdemeanor for refusing to obey an officer.
- d. 2013, Possession of a controlled substance
- e. 2019, Shoplifting
- f. 2020, Domestic violence (Order of Protection issued): In August 2020, the mother of GUEVARA's children, V.C., filed a petition for an order of protection against GUEVARA. In the petition, V.C. reported GUEVARA carried a firearm, and that GUEVARA provided drugs to a child. V.C. reported GUEVARA messaged their children (minors) saying he (GUEVARA) would take them to a "shop" to smoke. V.C. subsequently found marihuana

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and drug paraphernalia within the children's belongings. V.C. feared GUEVARA, who led a "wreckless life of drug dealing and abuse."

6. I personally became familiar with GUEVARA in 2018, after GUEVARA mistakenly walked into the Bernalillo County District Attorney's Office and turned in a thumb drive containing graphic videos and photographs of the August 2017 kidnapping, murder, and subsequent mutilation of an individual perpetrated by Chase Smothermon and Mariah Ferry. Based on the investigation, GUEVARA intended to assist Smothermon cover up his crimes by delivering the thumb drive to Smothermon's attorney, however GUEVARA delivered it to the wrong attorney by mistake. During interviews with law enforcement, GUEVARA stated Ricky "Bobby" Montano gave the thumb drive to GUEVARA and his girlfriend, and Montano asked them to urgently turn it in. GUEVARA agreed to turn in the thumb drive, because someone was going to "rat on" Smothermon, and Smothermon could lose the case. Ricky "Bobby" later called GUEVARA and his girlfriend and said they had delivered the thumb drive to the wrong people. GUEVARA described Ricky "Bobby" as his friend.
7. During the investigation, I became aware of GUEVARA's association with Ricky "Bobby," Smothermon, and their organization. The kidnapping investigation unraveled an extensive network of violent crimes, child pornography, and drug and firearms trafficking, involving Smothermon, Ricky "Bobby," Ferry, Cheriee Allaway, and their associates.

**FACTS AND CIRCUMSTANCES ESTABLISHING PROBABLE CAUSE**

8. On January 18, 2022, APD detectives executed a state search warrant at GUEVARA's known residence located at 6315 Cochiti Rd SE, Albuquerque, New Mexico. Detectives also executed a search warrant at GUEVARA's smoke shop located at 118 San Pedro Rd SE, Albuquerque, New Mexico.
9. During the execution of the search warrant of GUEVARA's residence, detectives located the

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following items:

- a. Glock 17, 9mm pistol, bearing serial number BPFV829, manufactured in Austria (with ammunition in its magazine, on living room table);
- b. Pietro Beretta, 9Corto, 9mm pistol, bearing serial number E59866, manufactured in Italy (with ammunition in its magazine, on living room table);
- c. DPMS Panther Arms, A-15, .223 caliber rifle, bearing serial number F297396, manufactured in Minnesota (with ammunition in magazine and one round in the chamber, behind couch in living room);
- d. Rock Island Armory, M1911, .45 caliber pistol, bearing serial number 1529237, manufactured in Philippines (with ammunition in its magazine, in bedroom drawer);
- e. Taurus, P92, 9mm pistol, bearing serial number TKT02901, manufactured in Brazil (with ammunition in its magazine, in bedroom drawer);
- f. Springfield, XD, 9mm pistol, bearing serial number HE905619, manufactured in Croatia (with ammunition in its magazine, in bedroom drawer);
- g. Smith & Wesson, 38 special revolver, bearing serial number 81071, manufactured in Massachusetts (in bedroom drawer);
- h. Approximately 35 pounds of a green leafy substance (field-tested positive to marihuana); and
- i. Approximately \$58,293 in US currency (in the bedroom)

**10.** GUEVARA's residence may be described as a one-bedroom apartment. During the search, detectives observed GUEVARA's pictures posted within the apartment, and they also located documents with GUEVARA's name.

**11.** The suspected marihuana located in GUEVARA's apartment was inside plastic bags. Multiple bags were located in the bedroom, and one bag was located in the living room. Additionally,

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detectives located other substances consistent with illegal narcotics, including but not limited to more than 50 pills that field-tested positive to oxycodone, one pill that field-tested positive to fentanyl, and a white substance that field-tested positive to cocaine. The money located in GUEVARA's bedroom was inside a safe and a suitcase.

**12.** During the search of GUEVARA's apartment, GUEVARA provided detectives with the keys to the smoke shop he owns located at 118 San Pedro Drive SE, Albuquerque, New Mexico. During the search of the smoke shop, detectives located the following:

- a. ABC, ABC-15, multi-cal rifle, bearing serial number 77-5259, manufactured in Nevada (with ammunition in its magazine and one round in the chamber, in the back room);
- b. Springfield, 1911, .45 caliber pistol, bearing serial number N526847, manufactured in Brazil (with ammunition in its magazine, in the back room);
- c. Palmetto, PA-15, multi-cal pistol, bearing serial number SC0075836, manufactured in South Carolina (in the back room); and,
- d. Approximately 20 pounds of a green leafy substance that field-tested positive to marihuana (in the back room).

**13.** The amount of US currency and the amount of narcotics located in GUEVARA's apartment are consistent with drug trafficking and not with personal use. Based on the amount of narcotics, the large sums of US currency, and the amount and placement of the firearms throughout GUEVARA's one-bedroom apartment, I believe GUEVARA possessed these firearms in furtherance of his drug trafficking activities. Similarly, the firearms and narcotics located in GUEVARA's smoke shop are consistent with possessing firearms in furtherance of drug trafficking.

**14.** From the firearms seized from GUEVARA's apartment and smoke shop, there were at least five (5) firearms that had been previously reported stolen. Several firearms were seized along with

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high-capacity magazines, including magazines that hold over 50 rounds of ammunition. The ABC-15 rifle listed in paragraph 12, which was seized from GUEVARA's smoke shop, had red stains on it, consistent with blood stains. There was also a high-capacity rifle magazine with similar red stains on it. The ABC-15 rifle was one of the firearms that had been previously reported stolen.

15. Through other law enforcement officers and other investigations, I am aware of ongoing violent incidents involving smoke shops in Albuquerque, including a deadly shooting at a smoke shop on San Pedro Drive on or around January 10, 2022. This shooting occurred less than a mile from GUEVARA's smoke shop. Based on my training and experience, I am aware of the violence associated with drug trafficking. For example, the kidnappings and murder described in paragraph 6 were the direct result from the illegal trafficking of marihuana. In that case, GUEVARA had knowledge of the violent death that occurred, and he still agreed to assist the perpetrators, specifically Smothermon, by delivering videos and photographs of the incident to his attorney.
16. Based on the above information, I believe the red stains, consistent with blood stains, on the stolen rifle and magazine seized from GUEVARA's smoke shop may contain evidence of the crimes listed in paragraph 3 and/or other violent incidents or unsolved investigations.
17. Based on my training and experience, I am aware that stolen firearms are often associated with other crimes, usually violent ones, and that individuals committing those crimes illegally obtain firearms to avoid linking themselves to said crimes.
18. Based on my training and experience, I am aware that DNA evidence (found in blood, saliva, sweat, etc.) may be found on the firearms seized from GUEVARA's apartment and smoke shop and other evidence items collected during this investigation, which remains open. I am requesting samples in the form of buccal (saliva) swabs from GUEVARA for the purpose of excluding or including GUEVARA as the contributor to these evidence items. These items are presently in the

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custody of law enforcement.

**INTERSTATE NEXUS AND FIREARM DETERMINATION**

19. On January 21, 2022, FBI Firearms Specialists conducted function tests on all the firearms listed above, except on the ABC-15 with serial number 77-5259 seized from GUEVARA's smoke shop. Of those firearms that were tested, the Taurus P92 pistol did not function as designed. All other firearms seized from GUEVARA's apartment and smoke shop functioned as designed. Based on my training and experience, and the markings on the firearms listed in this affidavit, I am aware that these firearms were not manufactured in New Mexico. I believe the firearms listed in this affidavit meet the federal definition of a "firearm."

**CONCLUSION**

20. Based on the aforementioned information, I submit that probable cause exists to search GUEVARA for the purpose of obtaining DNA samples in the form of buccal swabs, pursuant to Rule 41 of the Federal Rules of Criminal Procedure.

21. Assistant United States Attorney Nora Wilson approved this affidavit.

Respectfully Submitted,



Leysha López  
FBI Special Agent

ELECTRONICALLY SUBMITTED AND TELEPHONICALLY SWORN BEFORE ME ON JANUARY 26, 2022.



Honorable Laura Fashing  
United States Magistrate Judge  
District of New Mexico



**ATTACHMEHT A**

**PERSONS TO BE SEARCHED**

The following person will be searched:

GABRIEL MONICO GUEVARA

Age: 40

Eyes: Brown

Height: 5'4

Weight: 165



(NM driver's license photo)

**ATTACHMENT B**

**ITEMS TO BE SEIZED**

The following items will be seized: two DNA samples, via buccal swabs, from the person listed in Attachment A.